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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,548

09/09/2005

Stefan Gehlen

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IP STRATEGIES
12 1/2 WALL STREET
SUITE E
ASHEVILLE, NC 28801

EXAMINER

PERUNGA VOOR, SATHYANARAYA V

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

01/28/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/532,548	Applicant(s) GEHLEN ET AL.	
	Examiner SATH V. PERUNGAVOOR	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant(s) Response to Official Action

[1] The response filed on November 10, 2008 has been entered and made of record.

Response to Arguments

[2] Presented arguments have been fully considered but are held unpersuasive. Examiner's response to the presented arguments follows below.

Claim Rejections - 35 USC § 102

Summary of Arguments:

Regarding claim 1, applicant argues Prokoski et al. uses two images while the instant application uses one image. (Remarks: page 11, para. 2)

Examiner's Response:

Examiner respectfully disagrees. Regarding claim 1, the claim limitation does not limit the scope to a single image and the use of two images is within its scope. More clarification is need on how the comparing step is performed. Accordingly, Examiner maintains the rejection.

Claim Rejections - 35 USC § 103

Summary of Arguments:

Regarding claims 11, 12 and 14-17, applicant argues that Fung et al. does not disclose "correcting of a reference image to make it more suitable for a later comparison to a second image." (Remarks: Page 12, para. 3).

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Examiner's Response:

Examiner respectfully disagrees. Regarding claims 11, 12 and 14-17, claims do not recite the argued limitation. Accordingly, Examiner maintains the rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

[3] Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Prokoski et al. (US 5,163,094).

Regarding claim 1, Prokoski discloses a [m]ethod for determining the suitability of a digitized image of a person for person identification, with the steps: segmenting the image of a person into a background area and a head or face area (“A portion of the image--referred to as a faceball--is constructed 42 by forming the largest circle totally within the facial area”, Prokoski, column 5, line 67 and “Once the faceball boundary is defined, all data outside the boundary is discarded to produce a non-normalized faceball”, Prokoski, column 6, line 6), analyzing the head or face area to determine at least one characteristic value (“Analysis of the normalized faceball is performed by feature extraction 48 wherein elemental shapes of the hottest and coldest thermal contours corresponding to the sinuses, cheeks, and nose are identified. Elemental shapes A, B, C, and D are shown in the image of FIG. 7”, Prokoski, column 6, line 22), comparing the at least one characteristic value with at least one predetermined threshold value (“If the resulting cross correlation matrix contains a

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global minimum, that minimum is compared to a predetermined threshold value representing a required quality of fit for recognition 68”, Prokoski, column 7, line 67), and making a determination of the suitability (*i.e. quality of fit for recognition*) of the image based on a result of the comparison (“If the global minimum is below the threshold, the current faceball is recognized as being the same as the reference 70 and admission to the secure area is afforded 72.”, “If the global minimum is above the threshold, then other local minimums are evaluated.” Prokoski, column 8, lines 1-10).

Claim Rejections - 35 USC § 102/103

[4] All remaining claims are rejected as per discussion set forth in the previous non-final office action (mailed on 07/10/2008), which is incorporated herein by reference.

Conclusion

[5] **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Contact Information

[6] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Sath V. Perungavoor whose telephone number is (571) 272-7455. The examiner can normally be reached on Monday to Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Matthew C. Bella whose telephone number is (571) 272-7778, can be reached on Monday to Friday from 9:00am to 5:00pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dated: January 28, 2009

*/Matthew C Bella/
Supervisory Patent Examiner,
Art Unit 2624*

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